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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Andorra, Australia, Austria, Canada, Greece, Hungary, Italy, Japan, Monaco, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Cambodia

The General Assembly,

Guided by the purposes and principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights[1] and the International Covenants on Human Rights,[2]

Taking note of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, signed in Paris on 23 October 1991,[3] including part III thereof, relating to human rights,

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[1] Resolution 217 A (III).

[2] Resolution 2200 A (XXI), annex.

[3] A/46/608-S/23177, annex; see Official Records of the Security Council, Forty-sixth Year, Supplement for October, November and December 1991, document S/23177.

Recalling Commission on Human Rights resolution 1997/49 of 11 April 1997,[4] General Assembly resolution 51/98 of 12 December 1996 and previous relevant resolutions, including Commission on Human Rights resolution 993/6 of 19 February 1993,[5] in which the Commission recommended the appointment of a special representative for human rights in Cambodia, and the subsequent appointment by the Secretary-General of a special representative,

Recognizing that the tragic history of Cambodia requires special measures to assure the promotion and protection of the human rights of all people in Cambodia and the non-return to the policies and practices of the past, as stipulated in the Agreement signed in Paris on 23 October 1991,

Desiring that the United Nations respond positively to assist efforts to investigate Cambodia's tragic history, including responsibility for past international crimes, such as acts of genocide and crimes against humanity,

Welcoming the continuing role of the United Nations High Commissioner for Human Rights in the promotion and protection of human rights in Cambodia,

1. Requests the Secretary-General, through his Special Representative for human rights in Cambodia, in collaboration with the Office in Cambodia of the United Nations High Commissioner for Human Rights, to assist the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia and to ensure adequate resources for the enhanced functioning of the operational presence in Cambodia of the Office of the United Nations High Commissioner for Human Rights and to enable the Special Representative to continue to fulfil his tasks expeditiously;

2. Welcomes the report of the Secretary-General concerning the role of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights,[6] and encourages the Government of Cambodia to continue to cooperate with the Office;

3. Takes note with appreciation of the report of the Special Representative on the situation of human rights in Cambodia,[7] in particular his concerns for a legislative framework for the forthcoming national elections, and concerns about the problem of impunity, the independence of the judiciary and the establishment of the rule of law, the use of torture, the administration of prisons and the ill-treatment of prisoners, and child prostitution and trafficking;

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[4] See Official Records of the Economic and Social Council, 1997, Supplement No. 3 (E/1997/23), chap. II, sect. A.

[5] Ibid., 1993, Supplement No. 3 (E/1993/23), chap. II, sect. A.

[6] A/52/489, sect. III.

[7] E/CN.4/1997/85.

4. Notes with concern the lack of response by the Government of Cambodia to several of the recommendations contained in the Special Representative's previous reports and urges that it respond as soon as possible;

5. Expresses grave concern about numerous instances of violations of human rights, including extrajudicial executions, torture, including rape, illegal arrest and detention, as detailed in the reports of the Special Representative and his predecessor, and calls upon the Government of Cambodia to prosecute, in accordance with due process of the law and international standards relating to human rights, all those who have perpetrated human rights violations;

6. Also expresses grave concern about the serious violations of human rights during the armed violence of early July 1997 and its aftermath, as reported by the Special Representative and by the Office in Cambodia of the United Nations High Commissioner for Human Rights in its memorandum on summary executions, torture and missing persons, and urges the Government of Cambodia as a high priority to investigate thoroughly and impartially and to bring to justice those responsible for such serious crimes;

7. Notes that the perpetrators of the violence in Phnom Penh on 30 March 1997 against a peaceful and lawful opposition rally exercising their democratic rights and which resulted in numerous deaths and injuries have not been identified and brought to justice and urges the Government of Cambodia to take action;

8. Notes with serious concern the Special Representative's comments about corrupt practices within the judicial system and in the prison administration, and strongly urges the Government of Cambodia to address the problem of corrupt practices and to increase its efforts to create a functioning and impartial system of justice, including convening the Supreme Council of Magistracy, to institute a system to guarantee the essential sustenance of prisoners and to continue its efforts to improve the physical environment of prisons;

9. Stresses that addressing the continuing problem of impunity, as detailed by the Special Representative, including the repeal of article 51 of the 1994 Law on Civil Servants and bringing to justice those responsible for human rights violations, together with ensuring security of persons and rights of association, assembly and expression, is a matter of critical and urgent priority and essential to the creation of an atmosphere conducive to the holding of free, fair and credible elections;

10. Notes that national elections are scheduled to be held in May 1998 and strongly urges the Government of Cambodia to promote and uphold the effective functioning of multi-party democracy, including the right to form political parties, stand for election, take part freely in a representative Government, freedom of expression as well as the right to information, in accordance with the principles set out in paragraphs 2 and 4 of annex 5 to the Agreement signed in Paris on 23 October 1991;

11. Expresses support for the Secretary-General's efforts in Cambodia, including the role of United Nations offices in monitoring the return of political leaders currently outside the country and their unfettered resumption of political activity, and requests the Secretary-General to continue to consider any request from the Government of Cambodia for assistance with the holding of the elections, including coordination and monitoring;

12. Welcomes the proposed measures outlined by the Government of Cambodia in its comments[8] on the report of the Secretary-General to the General Assembly at its fifty-first session[9] to ensure that the forthcoming national elections are free and fair, and the assurances given by the Cambodian leaders to the Secretary-General stating their commitment to holding elections and to guaranteeing the security and safety of all returning political leaders, as well as their full resumption of political activities, and expresses the hope that this will facilitate the return of political leaders from abroad;

13. Emphasizes the need for the legislative framework for the elections, in accordance with established international standards, to be agreed upon and adopted by the National Assembly, for the security forces to remain neutral during the election campaign, for free and equal access to the electronic and print media, for the individual vote to be confidential, for full cooperation to be given to local and international observers, and for all parties to act in a constructive manner and to accept the outcome of the elections;

14. Strongly encourages the Government of Cambodia to establish an independent body to supervise the holding of the elections, to ensure that the elections are free, fair and credible, and to ensure that the Constitutional Council will be convened in order to resolve election disputes;

15. Endorses the comments of the Special Representative that the most serious human rights violations in Cambodia in recent history have been committed by the Khmer Rouge and that their crimes, including the taking and killing of hostages, have continued to the present, and notes with concern that no Khmer Rouge leader has been brought to account for his crimes;

16. Requests the Secretary-General to examine the request by the Cambodian authorities for assistance in responding to past serious violations of Cambodian and international law, including the possibility of the appointment, by the Secretary-General, of a group of experts to evaluate the existing evidence and propose further measures, as a means of bringing about national reconciliation, strengthening democracy and addressing the issue of individual accountability;

17. Urges the Government of Cambodia to take concrete action to combat child prostitution and trafficking and, in this connection, to work with the Office in Cambodia of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund and non-governmental organizations to develop an action plan;

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[8] A/51/453/Add.1.

[9] A/51/453.

18. Welcomes the signature in May 1997 of a memorandum of understanding between the International Labour Organization and the Government of Cambodia to formalize areas of cooperation in the field of child labour;

19. Encourages the Government of Cambodia to include Cambodian human rights non-governmental organizations in the rehabilitation and reconstruction of Cambodia and recommends that their skills be drawn upon to assist in ensuring that forthcoming elections are free, fair and credible;

20. Encourages the Government of Cambodia to request the Office of the United Nations High Commissioner for Human Rights to provide advice and technical assistance with respect to the creation of an independent national institution for the promotion and protection of human rights, and looks forward to the establishment of such an institution;

21. Notes with appreciation the use by the Secretary-General of the United Nations Trust Fund for a Human Rights Education Programme in Cambodia to finance the programme of activities of the Office in Cambodia of the United Nations High Commissioner for Human Rights as defined in resolutions of the General Assembly and the Commission on Human Rights, and invites Governments, intergovernmental and non-governmental organizations, foundations and individuals to consider contributing funds to the Trust Fund;

22. Expresses grave concern at the devastating consequences and destabilising effects of the use of anti-personnel landmines on Cambodian society, encourages the Government of Cambodia to continue its support and efforts for the removal of these mines, and urges the Government of Cambodia to give priority to banning all anti-personnel landmines;

23. Requests the Secretary-General to report to the General Assembly at its fifty-third session on the role of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and the people of Cambodia in the promotion and protection of human rights and on the recommendations made by the Special Representative on matters within his mandate;

24. Decides to continue its consideration of the situation of human rights in Cambodia at its fifty-third session.